

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MARK BREAKIRON,

Petitioner,

V.

MARTIN HORN, Commissioner,  
Pennsylvania Department of Corrections;  
CONNOR BLAINE, Superintendent of the  
State Correctional Institution at Greene, and  
JOSEPH P. MAZURKIEWICZ,  
Superintendent of the State Correctional  
Institution at Rockview,

Respondents.

CIVIL ACTION

No. 00 - 300:

Judge Fischer

**THIS IS A CAPITAL CASE.**

## UNOPPOSED MOTION TO RESCHEDULE BRIEFING SCHEDULE

Petitioner, MARK DAVID BREAKIRON, through undersigned counsel, hereby requests that this Court grant his MOTION TO RESCHEDULE BRIEFING SCHEDULE and in support hereby states:

1. On February 2, 2007, an evidentiary hearing was held before Judge Hardiman in the above-mentioned case.

2. At the close of the hearing it was decided by both parties that proposed findings of fact relating to the hearing would be filed first by Petitioner thirty (30) days after receipt of the hearing transcript. Respondents would then have thirty (30) days to respond with their own proposed findings of fact.

3. Petitioner received a transcript of the evidentiary hearing on April 11, 2007, which accordingly would have made Petitioner's proposed findings of fact due on May 11, 2007.

4. In a letter to Judge Hardiman, dated February 16, 2007, counsel for Petitioner, Stuart Lev, proposed the following schedule for the filing of post-hearing briefs. Petitioner would file his updated brief thirty days after the filing of the proposed findings of fact relating to the hearing. Respondents would file their brief within thirty days of receipt of Petitioner's brief, and Petitioner would file a reply brief within twenty one days after receipt of Respondents brief. Neither party would object to a reasonable extension of time should unforeseen circumstances render them unable to comply with this schedule.

5. On April 12, 2007, the instant case was reassigned to Judge Fischer in light of Judge Hardiman's appointment to the Third Circuit Court of Appeals.

6. A status conference was scheduled on April 24, 2007, but was cancelled due to the hospitalization and illness of counsel for Petitioner, Stuart Lev.

7. In light of the judicial reassignment and Mr. Lev's illness, undersigned counsel respectfully requests that the previously determined briefing schedule for the findings of fact and post-hearing briefs be vacated and would request that a new briefing schedule be determined at the next status conference to be held at a time convenient for all parties in mid-May.

8. Lastly, undersigned counsel has been in contact with Christopher Carusone, counsel for Respondents', who had no opposition to extending the time for filing the findings of fact and post-hearing briefs.

Respectfully submitted,

/s/ Tricia A. Russell

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Dated: April 25, 2007